

IV. Conduct of Elections

Summary

This chapter describes for the precinct official those statutes pertaining to voters' rights and to the rights of election officers to deny access to the polls. This chapter also outlines proper balloting procedures.

For all primary and general elections, polls open at 7 a.m. and close at 8 p.m. (§ 14212.) If a precinct board cannot provide a qualified voter with a ballot, the elections official will deliver additional ballots to ensure that all eligible voters can cast their ballots within two hours. (§ 14299(a).) In municipal elections, the polls must remain open for at least 8 consecutive hours. (§ 10242.) Voting may take place as soon as the polls open and will continue until they close. (§ 14214.)

Any United States citizen, 18 years or older, properly registered to vote in the State of California may vote in any election held within the territory where he or she resides. (§§ 2000, 10000.) On election day, a "new citizen" can register to vote at designated locations and can vote. (§ 3500.) The procedure to take if a voter is erroneously placed in a precinct other than the one in which he or she lives is found on page 22.

Upon entering the polling place, the voter should announce himself or herself and write his or her name and address in the space provided on the roster of voters. (§ 14216.) The procedure to be followed if the officer is unable to find a voter's name on the index of registration and a provisional ballot is necessary is set forth starting on page 23. A provisional ballot allows the voter to vote whereupon the specially sealed ballot will be counted only after proper confirmation of registration is determined by the county elections official. (§ 14310.)

An election officer may orally challenge a prospective voter within a polling place for any number of reasons. The procedure and the various grounds for which a voter may be challenged are found starting on page 25. Determining the domicile of a voter plays a pivotal role in the challenge process. The domicile of a person is that place where a voter's habitation is fixed, so that after any absence he or she intends to return. The definitions of "residence" and "domicile" for voting purposes and laws relating to the definitions are listed starting on page 26. Any challenged person refusing to take a properly administered oath or who refuses to be sworn and to answer questions of residence must not be permitted to vote. (§ 14249.) The precinct board is under obligation to keep a list of all challenges, containing all information listed on page 28. (§ 14252.)

Before each voter enters the voting booth, the precinct board shall inform him or her how to operate the voting device. If a marking or punching device is used, the voter shall be instructed to use only that device. The voter shall also be instructed how to fold the ballot and place it in the envelope. If any voter, after entering the booth, asks for information regarding the operation of the machine or device, the precinct board shall give him or her the information. (§ 14272.)

Each voter will receive only one ballot from the precinct board. (§ 14278.) A facsimile ballot containing ballot measures and instructions printed in an approved foreign language will be provided upon request unless sample ballots and ballots for voting are already furnished in that language as provided by law. (§ 14219.)

Upon leaving the voting booth, the voter will hand the folded ballot or the envelope containing the ballot to a precinct board member, who shall remove the ballot stub, hand it to the voter, and deposit the ballot into the ballot container. (§ 14277.)

Voting booths shall be occupied by only one person at a time unless a voter is accompanied by children in the voter's care or if the voter is eligible to receive assistance under the assisted voter provisions. (§§ 14222, 14224.) The precinct officers shall keep a list of those voters receiving help under the assisted voter provisions and shall return the list to the elections official. (§§ 14282, 14283.)

A ballot shall be marked only with the marking device provided by law. (§ 14284.) If a voter spoils or defaces a ballot, the voter should immediately return the ballot to the ballot clerk and receive another ballot; a voter shall not receive more than a total of three ballots. (§ 14288.) Those ballots marked by the ballot clerk as spoiled will be returned to the elections official with the unused ballots. (§ 14290.) Before depositing a properly voted ballot into the ballot box, the precinct inspector will remove the slip containing the number of the ballot and hand it to the voter. (§ 14225.) At least once each hour until 6 p.m., a precinct board member shall identify, on a posted copy of the index of registration, those voters who have voted, by drawing a line through their names. (§ 14294.)

"Vote-by-mail voter" means any voter casting a ballot in any way other than at the polling place. (§ 300(a).) A "military or overseas voter" can be a member of the active or reserve components of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; a Merchant Marine; a member of the United States Public Health Service Commissioned Corps; a member of the National Oceanic and Atmospheric Administration Commissioned Corps of the United States; or a member on activated status of the National Guard or state militia, their spouses and dependents; or a U.S. citizen living outside the territorial limits of the U.S. (§ 300(b).)

A "permanent vote-by-mail voter" is a registered voter who has requested his or her county elections official send him or her a vote-by-mail ballot for every election. (§ 3201.) A vote-by-mail voter can vote in a polling booth by surrendering the unused vote-by-mail ballot to the precinct inspector. (§ 3015.) Any vote-by-mail voter who is unable to surrender his or her vote-by-mail voter's ballot shall be issued a provisional ballot. (§ 3016.) Persons not planning to vote by mail but who find themselves physically incapable of reaching the polls on election day may have a ballot delivered by an elections official to any authorized representative of the voter. (§ 3021.) Voting restrictions placed on military or overseas voters reentering the county prior to election day can be found on page 34.

If at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote. Any one who arrives at the polling place after the time provided for closing the polls shall not be entitled to vote, even though the polls are open when the voter arrives. When the polls are closed, the precinct board shall proclaim that fact aloud at the place of election. After the proclamation no ballot shall be received. (§§ 14401, 14402.) Members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled and canceled ballots returned, the number of ballots given to them. The officers receiving returned ballots shall compel this accounting. (§ 14405(a).) The precinct board shall also complete and sign the certificate of performance prescribed in Section 15280, if that section applies. (§ 14405(b).)

1. Opening of the Polls.

Time of Opening Polls

The polls shall be open at 7:00 a.m. of the day of any election. (§ 14212.)

At Municipal Elections in General Law Cities

The polls shall be open on the day of election between the hours that the governing body determines, but not less than eight consecutive hours. The hours of opening and closing the polls shall be specified in the notice of election, or shall otherwise be the same as provided for general elections. (§ 10242.)

Opening Announced

Before the precinct board receives any ballots, it shall proclaim aloud at the place of election that the polls are open. (§§ 10242, 14213.)

Ballot Box to be Opened, Exhibited and Closed; Not Removed or Opened Until Polls Are Closed

Before receiving any ballots, the precinct board, in the presence of any persons assembled at the polling place, shall open and exhibit and close the ballot container or containers. Thereafter, the ballot container or containers shall not be removed from the polling place or presence of the bystanders until all the ballots are counted, nor opened until after the polls are finally closed. (§ 14215.)

2. Regulations at Polls.

Only Voters and Authorized Persons Permitted Within Barricade

Only voters engaged in receiving, preparing, or depositing their ballots and persons authorized by the precinct board to keep order and enforce the law may be permitted to be within the voting booth area before the closing of the polls. (§ 14221.)

Nothing contained in this code shall prevent a voter from being accompanied by a child or children under the age of 18 years while the voter is within the voting booth area if the child is, or children are, under the voter's care. (§ 14222.)

Except as provided in Section 14222, voting booths or compartments shall not be occupied by more than one person at a time, unless the voter is eligible under the assisted-voter provisions. Voters shall not remain in or occupy the booths or compartments longer than is necessary to mark their ballots, which shall not exceed 10 minutes. If a voter informs a precinct board member that the voter requires additional time to mark his or her ballot, a longer period shall be allowed. However, if the precinct board member determines that the voter is attempting to interfere with the conduct of the election and does not require additional time to mark his or her ballot, the precinct board member may contact the elections official, who may order that the voter not be provided with additional time to mark his or her ballot. (§ 14224.)

Persons Permitted To Sit at Desk

Only members of the precinct board, and persons while signing their names on the roster, shall be permitted, during the hours within which voting is in progress, to sit at the desk or table used by the precinct board. (§ 14223.)

Election Officers Must Be Present at Polls

At any election, a majority of the members of any precinct board shall be present at the polling place at all times while the polling place is open. (§§ 10243, 14220.)

Lawful Communication

Any member of the precinct board, when using a language other than English at the polls, shall communicate with voters in that language only as he or she would be lawfully permitted to communicate in English under the code. The member shall be subject to like penalty for any illegal communication as if it had occurred in English. (§ 14227.)

Election Officer Ceasing To Act, Replacement To Be Appointed, Substitute

The inspector may appoint a voter to replace any precinct board member who ceases to act or becomes incapacitated during the progress of an election. (§ 12314.)

If the inspector ceases to act, a majority of the remaining members of the precinct board may appoint a substitute. (§ 12315.)

3. Voting.

When Voting May Commence

Voting shall commence as soon as the polls are opened and shall be continued during the time the polls remain open. (§ 14214.)

Voter Must Be Entitled to Vote

After the opening of the polls, the precinct board shall not allow any voter to enter the voting booth until it ascertains that he or she is entitled to vote. (§ 14271.)

Who May Vote

Every United States citizen at least 18 years of age at the time of the election and resident in this State who complies with this Code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held. (Cal. Const., art. II, § 2; §§ 2000, 10000.)

New Citizens Can Register and Vote on Election Day

A new citizen is eligible to register and vote at the office of, or at another location designated by, the county elections official at any time beginning on the 14th day before an election and ending at the close of polls on the election day following the date on which that person became a citizen. (§ 3500.)

Local, Special or Consolidated Elections

Every person is entitled to vote at a local, special, or consolidated election who is registered in any one of the precincts that compose the local, special, or consolidated election precincts. (§ 10000.)

Instructions to Voter

Before each voter enters the voting booth, the precinct board shall inform him or her how to operate the voting device. If a marking or punching device is used, the voter shall be instructed to use only that device. The voter shall also be instructed how to fold the ballot and place it in the envelope. If any voter, after entering the booth, asks for information regarding the operation of the machine or device, the precinct board shall give him or her the information. (§ 14272.)

Marking Device Handed to Voter

The device for marking the ballot may be handed to the voter with his or her ballot before the voter goes into the voting booth, and shall be returned to the precinct board after he or she has finished marking his or her ballot. (§ 14273.)

Voter Placed in Wrong Precinct

If a voter is erroneously assigned to a precinct, the voter may apply to the elections official for a certificate showing the record of registration. The elections official shall give the voter the certificate on or before election day. Upon presentation of this certificate to the precinct board of the proper precinct, the board shall permit the voter to vote. If the voter does not obtain the certificate provided for in this section, and votes in the precinct into which the voter has been erroneously assigned by the elections official, and the election is contested, the voter's vote shall not be rejected for those candidates and on those measures with respect to which the voter would have been entitled to vote had the voter voted in the proper precinct, and no inquiry shall be made as to how the voter voted for those candidates or on those measures. (§ 2118.5(a).)

No voter who receives a certificate of registration as described in the preceding paragraph shall be charged a fee by the elections official. (§ 2118.5(b).)

A person duly registered as a voter in any precinct in California who moves from the precinct within 14 days prior to an election shall, for the purpose of that election, be entitled to vote in the precinct from which the person moved until the close of the polls on the date of that election. (§ 2035.)

Voter Who Has Moved and Not Reregistered

A voter who has moved from one address to another within the same county and who has not reregistered to vote at that new address may, at his or her option, vote on the day of the election at the polling place at which he or she is entitled to vote based on his or her current residence address, or at the office of the county elections official or other central location designated by that elections official. The voter shall be reregistered at the place of voting for future elections. (§ 14311(a).)

Voters casting ballots as permitted in the preceding paragraph shall be required to vote by provisional ballot, as provided in Section 14310. (§ 14311(b).)

Name and Address of Voter

Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address. The voter shall then write his or her name and residence address or, if the voter is unable to write, shall have the name and residence address written by another person on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article. (§ 14216.)

Change of Surname

If the surname of any person offering to vote has been changed since the person has registered, the person shall sign his or her name as it was before the change and also the appropriate name as it is at the time the person votes, indicating on the roster on the same line by brackets or other means that the two names are the name of one person. (§ 14218.)

4. Voter's Name Not On Index.

Inability to Find Voter's Name on Index

If the precinct board is unable to find a voter's name upon the index of registration, it shall inform the voter that he or she may cast a provisional ballot and the procedure for doing so. If the voter elects to cast a provisional ballot, the precinct board shall furnish the voter with a provisional ballot, in accordance with Section 14310. (§ 14217.)

Voting a Provisional Ballot

At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows: (1) An election official shall advise the voter of the voter's right to cast a provisional ballot. (2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d) of Section 14310. (3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote. (§ 14310(a).)

Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for vote-by-mail ballots, and shall be completed in the same manner as vote-by-mail envelopes. (§ 14310(b).)

During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on vote-by-mail ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare or the provisional ballot envelope is not signed, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. (§ 14310(c)(1).)

Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. (§ 14310(c)(2).)

The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official. If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot. If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct. (§ 14310(c)(3).)

Section 14310 shall apply to any vote-by-mail voter described by Section 3015 who is unable to surrender his or her unvoted vote-by-mail voter's ballot. (§ 14310(f).)

Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted. (§ 14310(g).)

State of Emergency – Emergency Worker Can Cast a Ballot Outside of Home Precinct

Upon the declaration of a state of emergency by the Governor and the issuance of an executive order authorizing an emergency worker to cast a ballot outside of his or her home precinct, elections officials in the counties included in the executive order shall, upon demand, issue to an emergency worker a provisional ballot that may be identical to the provisional ballot offered to other voters in the county, using a process to be determined by the elections official. The elections official shall transmit for processing any ballot cast, including any materials necessary to process the ballot, pursuant to Section 14313 to the elections official in the county where the voter is registered to vote. (§ 14313(a).)

To be counted, a ballot cast pursuant to Section 14313 shall satisfy both of the following requirements:

- (1) Be cast by the voter no later than the close of the polls on election day.
- (2) Be received by the county elections official where the voter is registered on or before the 10th day following the date of the election. (§ 14313(b).)

Upon receipt of the returned ballot, the elections official shall process the ballot pursuant to the procedures in subdivision (c) of Section 14310. (§ 14313(c).)

If the requirements in subdivisions (b) and (c) of Section 14313 are met and the ballot is eligible to be counted, the ballot shall be duplicated and all other materials preserved according to the procedures set forth in this code. (§ 14313(d).)

"Emergency worker" for the purposes of this section means a person who is officially engaged in responding to the proclaimed state of emergency and whose vocation has been identified in an executive order relating to the state of emergency. (§ 14313(e).)

Voter Claims Erroneous Cancellation of Affidavit of Registration

Any voter whose name has been placed on the inactive file of registered voters and offers to vote at any election between the date of the verification notice, and two federal general elections after the date of the notice, or who notifies the elections official of a continued residency, shall be removed from the inactive file and placed on the active voter file. (§ 2226(c).)

5. Challenge.

Conditions for Challenge

A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds: (1) the voter is not the person whose name appears on the index; (2) the voter is not a resident of the precinct; (3) the voter is not a citizen of the United States; (4) the voter has voted that day; or (5) the voter is presently on parole for the conviction of a felony. (§ 14240(a).)

Challenge Procedure

On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's qualifications to vote. (§ 14240(b).)

If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that the person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the elections official charged with the duty of conducting the election, and describe the contents of the document or list and the evidence, if any, received bearing on voting qualifications. The elections official shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board. The elections official may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided. (§ 14240(c).)

Challenge; Residency; Undelivered Mail Not Acceptable as Sole Evidence

A piece of mailed matter returned undelivered by the post office shall not be accepted or used as evidence upon which to initiate a challenge as to residency by any member of the precinct board unless other evidence or testimony is also presented, nor shall the mailed matter, standing alone without other evidence or testimony, be accepted as evidence by the precinct board in determining a challenge. (§ 14241.)

Challenge on Ground of Nonresidence in Precinct or Non-Citizenship; Determination

The ground for challenging a voter who is not a resident of the precinct at which he or she is offering to vote

shall not apply to any person who is duly registered as a voter in any precinct in California and who has moved from that precinct within 14 days prior to an election. (§ 14242.)

If the challenge is on the ground that the person seeking to vote is not a resident of the precinct, the person challenged shall be sworn to answer questions, and after having been sworn, a member of the precinct board shall ask that person: "Are you a resident of this precinct?" If the answer to the question is "Yes," without significant qualification, no other questions shall be asked. (§ 14244.)

Challenges of voters that they are not residents of the precinct or citizens of the United States shall be tried and determined by the precinct board at the time of the challenge. The precinct board may, at its discretion, also request any other person, present in the polling place to be sworn and answer questions, who the board believes may have knowledge or information concerning the facts of the challenge. (§ 14247.)

Challenge on Grounds of Voting Second Time or Impersonation; Determination

If the challenge is on the ground that the person seeking to vote is not the person whose name appears on the index, a member of the precinct board shall tender the following oath: "You do swear (or affirm) that you are the person whose name is entered on the index." (§ 14243.)

If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath: "You do swear (or affirm) that you have not previously voted in this election, either by vote-by-mail ballot or at a polling place." (§ 14245.)

If the challenge is on the ground that the person challenged is not the person whose name appears on the index, or that he or she has voted that day, the challenge shall be determined in favor of the person challenged if that person takes the oath as set forth either in Section 14243 or Section 14245. (§ 14246.)

Challenge; Doubt Resolved in Favor of Voter

Any doubt in the interpretation of the law shall be resolved in favor of the challenged voter. (§ 14251.)

Determination of Residence

The precinct board in determining the place of residence of any person shall be governed by the rules set forth in Article 2 (commencing with Section 2020) of Chapter 1 of Division 2. (§ 14250.)

Determination of Residence and Domicile

"Residence" for voting purposes means a person's domicile. The "domicile" of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile. The residence of a person is that place in which the person's habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. At a given time, a person may have more than one residence. (§ 349.)

The term of domicile is computed by including the day on which the person's domicile commenced and by excluding the day of the election. (§ 2020.)

A person who leaves his or her home to go into another state or precinct in this state for temporary purposes merely, with the intention of returning, does not lose his or her domicile. A person does not gain a domicile in any precinct into which he or she comes for temporary purposes merely, without the intention of making that precinct his or her home. (§ 2021.)

If a person moves to another state with the intention of making it his or her domicile, the voter loses his or her domicile in this state. (§ 2022.)

If a person moves to another state as a place of permanent residence, with the intention of remaining there for an indefinite time, he or she loses his or her domicile in this state, notwithstanding that he or she intends to return at some future time. (§ 2023.)

The mere intention to acquire a new domicile, without the fact of removal avails nothing; neither does the fact of removal without the intention. (§ 2024.)

A person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while employed in the service of the United States or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum or prison. Section 2025 shall not be construed to prevent a student at an institution of learning from qualifying as an elector in the locality where he or she domiciles while attending that institution, when in fact the student has abandoned his or her former domicile. (§ 2025.)

The place where a person's family is domiciled is his or her domicile unless it is a place for temporary establishment for his or her family or for transient objects. Residence in a trailer or vehicle or at any public camp or camping ground may constitute a domicile for voting purposes if the registrant complies with the other requirements of this article. (§ 2027.)

If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile, but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is a domiciliary where he or she has so taken up the abode. (§ 2028.)

The domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently in accordance with Division 2, Chapter 1, Article 2 of the Elections Code. (§ 2029.)

A domiciliary of this state who marries a person employed temporarily in this state in the service of the United States government, may elect to retain his or her domicile for the purpose of qualifying as an elector only, except that his or her domicile in this state shall terminate if such domiciliary qualifies as an elector in any other state or any territory. (§ 2030.)

If a person has more than one residence and such person maintains a homeowner's property tax exemption on the dwelling of one of the residences pursuant to Section 218 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to that person by, and on file with, the Department of Motor Vehicles. If a person has more than one residence and that person claims a renter's tax credit for one of the residences pursuant to Section 17053.5 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the renter's tax credit is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to such person by, and on file with, the Department of Motor Vehicles. This section shall not be applicable to state or federal elected officials. (§ 2031.)

Except as provided in Division 2, Chapter 1, Article 2 of the Elections Code, if a person has more than one residence and such person has not physically resided at any one of the residences within the immediate preceding year, there shall be a rebuttable presumption that those residences in which he or she has not so resided within the immediate preceding year are merely residences as defined in Section 349(c) and not his or her domicile. (§ 2032.)

"Rebuttable presumption" shall be deemed a presumption that affects the burden of producing evidence. (§ 346.)

Whenever the house number or the mailing address of a voter has been changed and the voter's domicile is the same, the public agency authorizing the change shall notify the county elections official in writing of the change and the county elections official shall make the change on the voter's affidavit of registration and a new affidavit shall not be required. (§ 2033.)

A person domiciled in a house or apartment lying in more than one precinct shall be registered as domiciled in the precinct designated by the county elections official on the basis of the street address or other precinct the county elections official considers appropriate unless the person requests, either by letter or in person at the office of the county elections official, that he or she wishes to be domiciled for registration purposes in another precinct in which his or her house or apartment lies. In order to fulfill this requirement, the letter of request shall include the name, signature, and residence address of the requester. (§ 2034.)

A person duly registered as a voter in any precinct in California who moves from the precinct within 14 days prior to an election shall, for the purpose of that election, be entitled to vote in the precinct from which the person so moved until the close of the polls on the date of that election. (§ 2035.)

Certification of Registration

A certified copy of an uncanceled affidavit of registration from the county elections official is prima facie evidence that the person named in the entry is a voter of the county. (§ 2167.)

Challenge; Prior to Oath

Before administering an oath to a person regarding his or her place of residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14249 and Article 2 (commencing with Section 2020) of Chapter 1 of Division 2. (§ 14248.)

Challenge; Refusal to Take Oath

If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions concerning the matter of residence, that person shall not be allowed to vote. (§ 14249.)

List of Challenges To Be Kept by Precinct Board

The precinct board shall compile a list showing all of the following:

- (a) The name and address of each person challenged.
- (b) The name, address, and any other identification as a voter, of each person offering information concerning any person's qualifications to vote, or testifying pursuant to Section 14247, together with the name and address and any other identification of the person about whom the information or testimony is given.
- (c) The grounds of each challenge.
- (d) The determination of the board upon the challenge, together with any written evidence pertaining thereto.
- (e) If evidence has been presented to the board requesting challenges, the evidence shall be returned to the elections official responsible for the conduct of the election. (§ 14252.)

Challenge; Discontinuation

In the event the precinct board determines that persistent challenging of voters is resulting in a delay of

voting sufficient to cause voters to forego voting because of insufficient time or for fear of unwarranted intimidation, the board shall discontinue all challenges, and so note on the roster. (§ 14253.)

If Challenge Overruled, Voter To Be Given Ballot

If the challenge is overruled, the election officer shall give the voter a ballot and the voter shall be allowed to vote.

6. Receiving and Marking Ballots.

One Ballot to Each Voter

The precinct board shall give each voter only one ballot, as provided in Section 13102. (§ 14278.)

Procedure if Insufficient Ballots at Precinct

If a precinct board is unable to furnish a ballot to a qualified voter because there are an insufficient number of ballots at the precinct, the elections official shall deliver to the precinct additional ballots to ensure that all eligible voters can cast their ballots within two hours. (§ 14299(a).)

While awaiting the delivery of additional ballots, the precinct board shall provide each voter with the option of casting his or her vote immediately using an alternative procedure established prior to the election or waiting for the delivery of the additional ballots. (§ 14299(b).)

This required alternative procedure shall be subject to approval by the Secretary of State. The elections official shall submit the alternative procedure to the Secretary of State for approval by a date to be determined by the Secretary of State. (§ 14299(c).)

Provide Facsimile Ballot to Voter

The precinct board shall provide upon request to any voter for use in the voting booth or compartment, a copy of the facsimile ballot containing ballot measures and instructions printed in Spanish or in other languages, as required by Section 14201, unless sample ballots and ballots for voting are already being provided in that language under the federal Voting Rights Act of 1965 as amended by Public Law 94-73. (§ 14219.)

At Primary Elections, Voter To Receive Official Primary Ballot

All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b), of Section 13102, as follows. (§ 13102(a).)

At partisan primary elections, each voter not registered as disclosing a preference with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless he or she requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices, voter-nominated offices, and measures to be voted for at the primary election. Each voter registered as preferring a political party participating in the election shall be furnished only a ballot for which he or she is disclosed a party preference in accordance with Section 2151 or 2152 and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207. (§ 13102(b).)

A political party may adopt a party rule in accordance with the above (subdivision (b) of Section 13102) that authorizes a person who has declined to disclose a party preference to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chair immediately upon adoption of that party rule. The party chair shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized. (§ 13102(c).)

The county elections official shall maintain a record of which political party's ballot was requested pursuant to subdivision (b), of Section 13102 or whether a nonpartisan ballot was requested, by each person who declined to disclose a party preference. The record shall be made available to any person or committee who is authorized to receive copies of the printed indexes of registration for primary and general elections pursuant to Section 2184. A record produced accordingly shall be made available in either a printed or electronic format, as requested by the authorized person or committee. (§ 13102(d).)

Voter To Receive Ballot Only in Proper Precinct

Unless otherwise provided by law, no person shall apply for or receive any ballot at any precinct other than that in which the voter is entitled to vote. (§ 14279.)

Voter To Receive Ballot Only from Precinct Officer

Unless otherwise provided by law a voter shall not receive a ballot from any person other than one of the precinct officers. No person other than a precinct officer or officer authorized by law shall deliver a ballot to any voter. (§ 14280.)

Voter To Be Instructed on Marking Ballot and How to Mark

All ballots, except vote-by-mail voter ballots, shall be marked only with the marking device provided by law. (§ 14284(a).)

To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted. (§ 14284(b).)

Receipt of Ballot; Voting Booth Occupancy

On receiving a ballot, the voter shall forthwith retire alone to one of the booths or compartments provided, and mark the ballot, unless Section 14222 or 14224 is applicable. (§ 14281.)

Nothing contained in this code shall prevent a voter from being accompanied by a child or children under the age of 18 years while the voter is within the voting booth area if the child is, or children are, under the voter's care. (§ 14222.)

Except as provided in Section 14222, voting booths or compartments shall not be occupied by more than one person at a time, unless the voter is eligible under the assisted voter provisions (see below). Voters shall not remain in or occupy the booths or compartments longer than is necessary to mark their ballots, which shall not exceed 10 minutes. If a voter informs a precinct board member that the voter requires additional time to mark his or her ballot, a longer period shall be allowed. However, if the precinct board member determines that the voter is attempting to interfere with the conduct of the election and does not require additional time to mark his or her ballot, the precinct board member may contact the elections official, who may order that the voter not be provided with additional time to mark his or her ballot. (§ 14224.)

Voters Assisted: When and How

When a voter declares under oath, administered by any member of the precinct board at the time the voter appears at the polling place to vote, that the voter is then unable to mark a ballot, the voter shall receive the assistance of not more than two persons selected by the voter, other than the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member. (§ 14282(a).)

No person assisting a voter shall divulge any information regarding the marking of the ballot. (§ 14282(b).)

In those polling places that are inaccessible under the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped, a physically handicapped person may appear outside of the polling place and vote a regular ballot. The person may vote the ballot in a place that is as near as possible to the polling place and that is accessible to the physically handicapped. A precinct board member shall take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place. In those precincts in which it is impractical to vote a regular ballot outside the polling place, vote-by-mail ballots shall be provided in sufficient numbers to accommodate physically handicapped persons who present themselves on election day. The vote-by-mail ballot shall be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by that person outside the polling place. (§ 14282(c).)

Assisted Voters List

The precinct officers shall keep a list of the voters who have been assisted in marking their ballots. The list of assisted voters shall be returned to the elections official and preserved with other election materials and records. (§ 14283.)

When Two or More Are To Be Elected to Same Office

Where two or more candidates for the same office are to be elected, and the voter desires to vote for candidates for that office, the voter shall, by using the provided marking device, place a mark in the voting square, rectangle, or other specific voting space following the names of the candidates for that office for whom the voter intends to vote, not exceeding, however, the number of candidates to be elected. (§ 14285.)

Measures To Be Voted On

When a measure is submitted to the voters, the voter shall place a mark on the ballot in the appropriate space opposite the answer the voter desires to give as to that measure. The voter, in marking the ballot, shall use the marking device provided. (§ 14286.)

Recall Election

In addition to the material contained in Section 11320, the following shall appear on ballots at all recall elections, except at a landowner voting district recall election: (a) The names of the candidates nominated to succeed the officer sought to be recalled shall appear under each recall question. (b) Following each list of candidates, the ballot shall provide one blank line with a voting space to the right of it for the voter to write in a name not printed on the ballot. (§ 11322.)

A voter shall indicate, by using the stamp or other marking device to place a mark in the voting space opposite either "Yes" or "No", his vote for or against the recall proposal, respectively. (§ 11323.)

No Identifying Marks on Ballot

No voter shall place personal information upon a ballot that identifies the voter. "Personal information" includes all of the following:

- (a) The signature of the voter.
- (b) The initials, name, or address of the voter.
- (c) A voter identification number.
- (d) A social security number.
- (e) A driver's license number. (§ 14287.)

Folding Ballot or Placing in an Envelope

Before leaving the voting booth or compartment, the voter shall, depending on the type of ballot, (1) fold or place the ballot card in the envelope so that the ballot markings of the voter will not be exposed, and the ballot stub will be outside of the envelope or other container, to be removed by the precinct board; or (2) fold the ballot according to the instructions on it, so that the marks on its face are not visible and only the number on the ballot and the top margin are exposed. (§§ 14275, 14292.)

Voter Shall Not Reveal Contents of Ballot

After the ballot is marked, a voter shall not show it to any person in such a way as to reveal its contents. (§§ 14276, 14291.)

Depositing Ballot in Ballot Container or Box

The voter shall hand the folded ballot or the envelope containing the ballot to a precinct board member who shall either remove the ballot stub, hand it to the voter, and deposit the ballot in the ballot container, or separate the slip containing the number from the ballot, hand the slip to the voter, and deposit the ballot in the ballot box in the presence of the voter.

If the ballot is to be transferred from the envelope to the ballot container, care shall be taken not to disclose the markings of the voter on the ballot. (§§ 14277, 14293.)

Spoiled Ballots

If a voter spoils or defaces a ballot, the voter shall at once return it to the ballot clerk and receive another ballot. A voter shall not receive more than a total of three ballots, including his or her original ballot, in this manner. (§ 14288.)

Cancellation of Spoiled Ballots

The precinct board shall immediately cancel, without unfolding them, all the spoiled ballots returned. The board shall write the word "spoiled" on the back of each spoiled ballot in ink or indelible pencil and return the spoiled ballots with the unused ballots. (§ 14290.)

Cancelled Ballots

Any voter who does not vote the ballot he or she has received, shall, before leaving the polling place, return it to the board member having charge of the ballots, who shall immediately cancel it. All canceled ballots shall be returned to the ballot clerk in the same manner as spoiled ballots. (§ 14296.)

Notation of Vote

No later than the time at which the voter delivers the voted ballot, a precinct board member in charge of the index shall write in the space opposite the name of the voter the line number designating the position of the name on the roster. In those counties using the combined index roster, the voter's name shall be crossed off of the index in lieu of numbering. (§ 14297.)

Delivery of Ballot

No voter shall deliver to any member of the precinct board any ballot other than the one received from the board member. (§ 14295.)

Number Slip Removal

Members of the precinct board shall not deposit in the ballot container any ballot from which the slip containing the number of the ballot has not been removed by a member of the precinct board and handed to the voter. This section does not apply to a vote-by-mail ballot. (§ 14225.)

Notice of Persons Voted

At all elections, a member of the precinct board shall mark, on one of the copies of the index posted at or near the polling place, the name of each person who has voted, by drawing a line through the name of the voter, with a pen or indelible pencil. The board member shall mark off the names at least once each hour, to and including 6 p.m. In all counties not using the index roster, the board member shall draw a line under the last name signed in the roster at 6 p.m. or at the time of discontinuation of this procedure, whichever occurs last. (§ 14294.)

Maintenance of Index

The precinct board shall maintain the copies of the index posted during the whole time of voting. These copies shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. (§ 14298(a).)

A member of the precinct board shall post a notice on each index which reads as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor." (§ 14298(b).)

7. Vote-By-Mail and Military or Overseas Voters Voting.

Surrender of Vote-By-Mail Voter Ballot

Vote-by-mail voters who return to their home precincts on election day may vote only if they surrender their vote-by-mail voter ballots to the inspector of the precinct board. The precinct board shall return the unused vote-by-mail voter's ballots to the elections official in an envelope designated for this purpose. (§ 3015.)

Provisional Ballot When Unable To Surrender Vote-By-Mail Voter Ballot

Any vote-by-mail voter who is unable to surrender his or her vote-by-mail voter's ballot within the meaning of Section 3015 shall be issued a provisional ballot in accordance with Section 14310. (§ 3016.)

Return of Voted Vote-By-Mail Ballot

All vote-by-mail ballots cast under this division shall be voted on or before the day of the election. After marking the ballot, the vote-by-mail voter shall do either of the following: (1) return the ballot by mail or in person to the elections official from whom it came or (2) return the ballot in person to a member of a precinct board at a polling place within the jurisdiction. However, a vote-by-mail voter who is unable to return the ballot may designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the vote-by-mail voter to return the ballot to the elections official from whom it came or to the precinct board at a polling

place within the jurisdiction. The ballot must, however, be received by either the elections official from whom it came or the precinct board before the close of the polls on election day. (§ 3017(a).)

The elections official shall establish procedures to ensure the secrecy of any ballot returned to a precinct polling place. (§ 3017(b).)

The provisions of Section 3017, described here, are mandatory, not directory, and a ballot shall not be counted if it is not delivered in compliance with Section 3017. (§ 3017(d).)

Notwithstanding subdivision (a), of Section 3017, a vote-by-mail voter's ballot shall not be returned by any paid or volunteer worker of any general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service. However, this prohibition does not apply to a candidate or a candidate's spouse. (§ 3017(e).)

Receiving of Vote-By-Mail Ballot

All vote-by-mail ballots cast under Division 3 of the Elections Code shall be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day. (§ 3020.)

A valid ballot cast shall be counted if it is received by the elections official by the time the polls close on the day of the election. (§ 3117.)

Vote-By-Mail Ballot After the Period for Requesting by Mail

After the close of the period for requesting vote-by-mail voter ballots by mail, any voter unable to go to the polls because of illness or disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his or her polling place or because of that handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying him or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury, that a ballot be delivered to him or her. This written statement shall not be required if the vote-by-mail voter ballot is voted in the office of the elections official as defined by Section 3018(b), at the time of the request. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the elections official.

Before delivering the ballot the elections official may compare the signature on the request with the signature on the voter's affidavit of registration, but in any event, the signature shall be compared before the vote-by-mail voter ballot is canvassed.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other vote-by-mail ballots. (§ 3021.)

Military or Overseas Voter May Register Upon Return to the County

If a military or overseas voter who is qualified pursuant to Section 300(b)(1) is released from service after the closing date of registration for an election and has returned to the county of his or her residence and is not a registered voter, he or she may apply in person to the elections official for permission to register. If the elector furnishes documentary proof of release from service after the closing date of registration for the election, the elections

official shall allow him or her to be registered and to vote in the election. On or before the day of election the elections official shall deliver to the precinct board a list of military or overseas voters registered under this section. (§ 3108.)

Military or Overseas Voter Who Returns to the County

If any military or overseas voter to whom a vote-by-mail ballot has been mailed and which ballot has not been voted by him or her returns to the county in which he or she is registered, or for a military or overseas voter qualified pursuant to Section 321(b)(2), to the county in which the applicant's parent or legal guardian resided when the parent or legal guardian last lived within the territorial limits of the United States or the District of Columbia on or before election day, he or she may apply for a second vote-by-mail ballot pursuant to Section 3014. The elections official shall require him or her to sign an authorization to cancel the vote-by-mail ballot previously issued when it is returned to the county elections official. The elections official shall then issue another vote-by-mail ballot to the voter, or the elections official shall certify to the precinct board that the voter is eligible to vote in the precinct polling place of his or her residence. (§ 3109.)

Registered Military or Overseas Voters

If any military or overseas voter returns to the county of his or her residence, or for a military or overseas voter qualified pursuant to Section 321(b)(2), to the county in which the applicant's parent or legal guardian resided when the parent or legal guardian last lived within the territorial limits of the United States or the District of Columbia, after the final day for making application for a vote-by-mail voter ballot, he or she may appear before the elections official and make application for registration, vote-by-mail ballot, or both. The elections official shall register the voter, if he or she is not registered, and deliver to him or her a vote-by-mail ballot, which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote-by-mail ballots. (§ 3110.)

8. Closing the Polls.

Time of Closing Polls

The polls shall be kept open until 8 p.m. of the day of any election. (§ 14212.) When the polls are closed, the precinct board shall proclaim that fact aloud at the place of election. After the proclamation, no ballot shall be received. However, if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote. (§ 14401.)

Anyone who arrives at the polling place after the time provided for closing the polls shall not be entitled to vote, even though the polls are open when he or she arrives. (§ 14402.)

Time for Closing of Polls Extended by Court Order

If the time for closing the polls is extended pursuant to a court order, all votes cast during the time that the closing of the polls is extended shall be by provisional ballot. Any provisional ballots so cast shall be separated and held apart from other provisional ballots cast by voters prior to the time the closing of the polls was extended. (§ 14402.5.)

Municipal Elections in General Law Cities

The polls shall be open on the day of election between the hours that the governing body determines, but not less than eight consecutive hours. The hours of opening and closing the polls shall be specified in the notice of election, or shall otherwise be the same as provided for general elections. (§ 10242.)

Procedures after the Close of Polls

As soon as the polls are closed, the precinct board, in the presence of the watchers and all others lawfully present, shall immediately lock the voting machine against voting and open the counting compartments, giving full view of all counter numbers. A board member shall, in the order of the offices as their titles are arranged on the machine, read and distinctly announce the name or designating number and letter on each counter for each candidate's name and the result as shown by the counter numbers. He or she shall also in the same manner announce the vote on each measure.

If the machine is provided with a recording device, in lieu of opening the counter compartment, the precinct board shall proceed to operate the mechanism to produce the statement of return of votes cast record in a minimum of three copies, remove the irregular ballot, if any, record on the statement of return of votes cast record. The irregular ballot shall be attached to the statement of result record of votes cast for the machine and become a part thereof. One copy of the statement of return of votes cast for each machine shall be posted upon the outside wall of the precinct for all to see. To protect a person's right to cast a secret ballot under Section 7 of Article II of the California Constitution, in cases where fewer than 10 voters cast ballots on any single machine on which the results are tallied at the precinct, the precinct board shall post only the total number of people who voted at that precinct on the machine that keeps vote tallies. The statement of return of votes cast for each machine for the precinct shall constitute the precinct statement of result of votes cast. (§ 19370.)¹

Render Unused Ballots Unusable

Immediately upon the closing of the polls and before any voted ballot is taken from any of the ballot containers, the precinct board member shall, in the presence of all persons in the room who may desire to observe them, proceed to render the unused ballots unusable in one of the following ways:

- (a) By drawing across its face, in ink or indelible pencil, two lines that cross each other, the cross to be more than three inches square. The precinct board member shall thereupon, immediately and before any ballots are taken from any ballot container, place all defaced ballots within an envelope or other receptacle provided for that purpose.
- (b) By tearing or cutting in a manner so that it is apparent that the ballot has been intentionally destroyed to prevent its use. If this method of destruction is used, it shall be done in a manner so that the serial number of the ballots is retained for the purpose of reconciliation.
- (c) By placing all of the unused ballots into a special container provided for that purpose. A tamperproof seal containing spaces for entering the total number of unused ballots enclosed, the beginning and ending serial numbers thereof, and signature lines for all members of the precinct board following a statement certifying that all the ballots were placed in the container in their presence and the information on the seal is true and correct, shall be provided. After signing the seal, it shall be placed on the container in a manner so that the container cannot be opened without tearing the seal. (§ 14403.)

Immediately upon the arrival of the hour when the polls are required by law to be closed on election day, the elections official conducting the election shall openly, in the elections official's main office, in the presence of any persons who are present to observe, according to the procedure set forth in Section 14403, proceed to render every unused ballot remaining in the control of the elections official unusable. The elections official shall forthwith make and file an affidavit, in writing, as to the number of ballots destroyed. If the procedure in Section 14403(c) is used, the tamperproof seal shall be signed by the elections official and at least one deputy or assistant elections official or registrar. The sealed container shall then be placed, with the sealed containers containing unused ballots from the precincts, in a security area by the elections official until disposition is made pursuant to Section 17301 or 17302.

¹ The principle purpose of this section applies to old lever machines.

Alternatively, the elections official may, immediately upon the arrival of the hour when the polls are closed, recycle for any other lawful purpose any unused ballots remaining in the control of the elections official that clearly identify the election for which they were prepared. No later than 30 days following the last day to certify the official results of the election, the elections official shall make and file an affidavit, in writing, as to the number of ballots recycled. At the elections official's discretion, the unused ballots may be recycled up to six months following an election, or at the conclusion of an election contest proceeding, whichever is later. (§ 14404.)

Reconciliation of Ballots

The members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled and canceled ballots returned, the number of ballots given to them. The officers receiving returned ballots shall compel this accounting. (§ 14405(a).)

The precinct board shall complete the roster as required in Section 14107, and shall also complete and sign the certificate of performance prescribed in Section 15280, if that section applies. (§ 14405(b).)

Delivery to Central Counting Place

If the ballots are to be counted at a central counting place, no fewer than two precinct board members shall, following the close of the polls, deliver the ballots, in a sealed container, to the central counting place or a designated receiving station. There may be two or more central counting places. (§ 15202.)